

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

CLYDE LEON FOX,

Plaintiff,

VS.

**Sheriff ASHLEY PAULK, Head Nurse
SHIRLEY LEWIS, and Nurse WHITE,**

Defendants.

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**CIVIL ACTION FILE
NO. 7:08-CV-129 (HL)**

RECOMMENDATION

This is a §1983 action brought by a former detainee of the Lowndes County, Georgia Jail (“LCJ”). Defendant Paulk, at the time this action was filed, was the County Sheriff and therefore had overall responsibility for the LCJ. The remaining two defendants are employed at the LCJ as part of the facility medical staff. This is a somewhat atypical complaint to have been filed by a *pro se* detainee inasmuch as he seeks only injunctive relief. In his complaint he states only that, “I would appreciate it if the Court would impose an order that I be taken to a ENT doctor where I can receive medication and that the medical staff here provide me with the needed medication when order [sic] to do so by a ENT doctor.” (Doc. 2, complaint, p. 5, ¶ 12).

Plaintiff’s complaint is dated October 2, 2008, and was received by the court on October 6, 2008. On December 22, 2008, the court received a notice of address change from the plaintiff dated December 17, 2008 (doc. 8).

On December 23, 2008, Defendant Paulk filed a motion to dismiss along with a supporting memorandum (doc. 10). On January 6, 2009, Defendants Lewis and White filed essentially the same motion and memorandum (doc. 14). Plaintiff was given notice of his right to file responses

in opposition to the granting of the motions (doc. 11, 16). Plaintiff did not file a response to either motion but did file a motion seeking a continuance without stating a reason therefore (doc. 17).

This motion was denied for the reasons set out below (doc. 19).

This recommendation addresses both motions to dismiss as they are essentially identical. As correctly pointed out by all defendants, a plaintiff detainee's claims for injunctive relief are rendered moot when he is transferred to another detention facility or released. The above quoted language from the complaint makes clear that plaintiff sought only injunctive relief. Document No. 8 makes clear that he was being detained at the Santa Rosa County Jail in Milton, Florida some time prior to December 17, 2008. A prisoner's claim for declaratory and injunctive relief is mooted by his transfer or release from the facility about which he complains. Zatler v. Wainwright, 802 F.2d 397, 399 (11th Cir.1986); McKinnon v. Talladega County, Alabama, 745 F.2d 1360 (11th Cir.1984).

It is there the RECOMMENDATION of the undersigned that both motions to dismiss addressed herein (docs. 10 and 14) be GRANTED for the above stated reasons. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable Hugh Lawson, United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

SO RECOMMENDED, this 13th day of March 2009.

/s/ **Richard L. Hodge**
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE